

In re ) Fair Hearing No. 20,596  
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Appeal of )

The petitioner appeals a decision by the Department for Children and Families, Health Access Eligibility Unit (HAEU), terminating Vermont Health Access Program (VHAP) benefits for his daughter, a college student.<sup>1</sup> The issues include whether the daughter was eligible for VHAP benefits as a college student and the nature of continuing benefits upon requesting a fair hearing. The decision is based upon the evidence adduced during the fair hearing of January 10, 2007 and telephone status conference of February 23, 2007.

1. Prior to November 2006, the petitioner, his wife, and eighteen-year-old daughter received VHAP benefits and his minor son received Dr. Dynasaur benefits. Petitioner and his son still receive benefits. As will be more fully spelled

<sup>1</sup> The petitioner's spouse represented the family during the fair hearing process.

out below, the daughter and wife have not received VHAP benefits.<sup>2</sup>

2. The daughter is a freshman at the University of Vermont. The University of Vermont offers health insurance coverage to its students. The daughter is neither working a minimum of twenty hours per week nor participating in a work study program.

3. When the VHAP program requires recipients to pay a premium for coverage, HAEU sends a bill to the recipients. The following example demonstrates how the premium process works. Petitioner was billed August 30, 2006 for \$150 representing \$50 premiums each for petitioner, his wife, and daughter. The three were listed on the bill for coverage. The payment due date was September 15, 2006 for October coverage. Petitioner paid the \$150 premium and all three were covered by VHAP for October 2006.

4. The petitioner's case was reviewed during September 2006. HAEU asked petitioner for clarification mid September,

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<sup>2</sup> During the latter part of 2006, the wife's coverage lapsed because premium payments were not received. The wife's coverage was not part of the October 27, 2006 fair hearing request although the history of the petitioner's VHAP payments is a factor regarding the daughter's continuing benefits. The payment history is more fully set out above. The VHAP program allows individuals to reapply at any time. As a result, pending this decision, efforts are being made to restore present VHAP eligibility for the wife through HAEU sending a new application for these benefits.

2006 because his wife was listed as not working. Petitioner corrected this information on September 29, 2006 with information regarding his wife's employment.

5. On September 28, 2006, petitioner was billed \$150 for November VHAP coverage for his wife, daughter, and himself.

6. On October 10, 2006, HAEU sent a decision notice to petitioner closing his daughter's VHAP coverage effective October 31, 2006 alleging she was over income.

7. HAEU received petitioner's premium payment of \$150 for November after the October 10, 2006 notice but during the payment period for November. HAEU applied \$100 of the payment as premiums for petitioner and his wife to cover them for November and created a credit of \$50 for future premiums. HAEU did not credit any of the above premium to the daughter.

8. Petitioner requested a fair hearing and continuing benefits for the daughter on October 27, 2006. The daughter was reinstated, but HAEU did not apply the \$50 credit to the daughter's November premium. A notice of decision dated October 27, 2006 was sent to petitioner that his daughter would be eligible November 1, 2006, that the premium was \$75, that if a premium was required--a bill would be sent, and no payment would cause VHAP to end. According to petitioner's

wife, they did not receive a copy of this notice.

Petitioner's wife testified that they experience problems receiving mail because their address is similar to another address within their town. The petitioner did not receive a bill for his daughter's premium.

9. On October 28, 2006, HAEU billed petitioner \$175 for December coverage. The earlier \$50 credit was applied to the petitioner for his December coverage leaving a balance of \$125 to be paid. Petitioner's wife testified at the January 10, 2007 fair hearing that she mailed this payment. HAEU had no record of this payment being made.<sup>3</sup> Petitioner's wife was requested to provide verification of the payment by the status conference scheduled for February 23, 2007. Petitioner's wife was unable to provide such verification as her bank has no record of this check being cashed. Petitioner's wife stated she was not aware that the check had not been cashed until she sought verification.

10. On November 2, 2006, HAEU sent petitioner a corrected notice that his daughter was not eligible because she was a full-time college student at an institution that

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<sup>3</sup> Because payment was not credited, petitioner's wife lost her VHAP coverage. The VHAP bills include information that if payment is not made, coverage will lapse. However, it is not clear whether petitioner received advance notification that his wife's eligibility would end November 30, 2006.

provides students with health insurance. HAEU noted their original reason for denying the daughter's eligibility was incorrect.

11. Petitioner was subsequently billed \$50 per month for his VHAP premiums and has paid this amount.

12. Petitioner's wife believed that her daughter continued to be covered by VHAP; the daughter incurred medical expenses for November 2006. Petitioner's wife does not understand why the \$50 paid in October for her daughter was not credited as her daughter's November premium. HAEU dropped the daughter's coverage starting November 1, 2006 stating they did not receive any premium payments for the daughter.

ORDER

HAEU's decision is affirmed as the daughter is not eligible for VHAP as a college student and reversed to allow continuing benefits to the daughter for the month of November 2006.

REASONS

The VHAP program was created to expand health care coverage to uninsured and underinsured low income Vermonters. W.A.M. § 4000. The regulations define which individuals meet

the eligibility criteria for uninsured or underinsured.

W.A.M. § 4001.

College students are typically excluded from VHAP coverage. W.A.M. § 4001.2(b) states:

Students under the age of 23 enrolled in a program of an institution of higher education are not eligible for coverage, however, if they:

- have elected not to purchase health insurance covering both hospital and physician services offered by their educational institution; or
- are eligible for coverage through the policy held by their parents, but their parents have elected not to purchase this coverage.

Fair Hearing No. 19,304 is instructive. In that case, a parent opted not to purchase health coverage offered through the college believing her child would remain covered by VHAP. However, the Board affirmed the Department's finding that the student was ineligible because the college offered insurance.

The Board has considered this type of exclusion rational as it allows the department to cover the largest group of completely uninsured persons possible by excluding those with reasonable access to health insurance through the group rates of an institution. Fair Hearing Nos. 17,588; 18,766; and 19,304.

Based upon the above regulation, petitioner's daughter is not eligible for VHAP benefits as she elected not to purchase health insurance through her university.<sup>4</sup>

Although petitioner's daughter is not eligible due to her student status, the question of her continuing benefits remains.

Petitioner was billed September 28, 2006 for November VHAP coverage including his daughter. Petitioner remitted sufficient funds to cover his daughter for November. However, HAEU did not count those funds for the daughter believing her eligibility would end as of October 31, 2006.

Petitioner argues that filing for a fair hearing should have restored the status quo--the daughter's continuing VHAP eligibility and application of the received premium for her share of November's benefits. The paperwork petitioner received from HEAU about the daughter's continuing benefits does not delineate the daughter's premium or when the premium was due. The testimony of petitioner's wife about their obligations and the sequence of events can be characterized as confused.

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<sup>4</sup> College students may meet VHAP requirements if they are employed for a minimum of twenty hours per week or are participating in a state or federally financed work study program (provided the student was approved for the work study position at the time of application). W.A.M. § 4001.6(b). However, petitioner's daughter does not meet these requirements.

At the very least, once the petitioner requested a fair hearing with continuing benefits, the \$50 originally paid on behalf of the daughter should have been restored as payment for her November VHAP benefits. Petitioner's daughter should be considered eligible for VHAP for the month of November 2006.<sup>5</sup>

HAEU sends premium bills approximately one month in advance of the month of intended coverage and asks for remittance approximately two weeks (mid month) before the month of intended coverage. In the event the premium is not paid on time, HAEU can meet its obligation to provide advance written notice ten calendar days before terminating benefits. W.A.M. § M141 and § 4002.6. See Fair Hearing Nos. 19,748 and 20,081.

HAEU sent petitioner a timely bill for December coverage including coverage for his daughter. HAEU did not receive payment for the daughter's December coverage as well as petitioner's wife coverage. As a result, HAEU closed their VHAP cases effective November 30, 2006 for non-payment of

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<sup>5</sup>Applying the \$50 to the daughter's November coverage means there will be a \$50 shortfall in the petitioner's payments that will need to be made up.



premium. HAEU can terminate coverage for non-payment of premium.<sup>6</sup> W.A.M. § 4001.91.

Based on the foregoing, HAEU's decision that petitioner's daughter is ineligible for VHAP is affirmed. However, HAEU's decision to disallow continuing benefits for the month of November 2006 is reversed, and the daughter should be found eligible for continuing VHAP benefits for the month of November 2006. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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<sup>6</sup>The materials submitted by HAEU at the fair hearing do not include a Notice to terminate the daughter's and wife's VHAP coverage on November 30, 2006 for failure to pay the December premium. Thus, it is unclear whether HAEU met its requirements to give advance written notice of an action to terminate benefits. With advance written notice, the petitioner would have been in a position to cure any default prior to the effective date of the termination. The conundrum at present is that premiums have not been paid through this period for the daughter or wife. This issue is separate from the issues on appeal herein and can be pursued separately.